

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 32859

STATE OF IDAHO,	)	2009 Unpublished Opinion No. 684
	)	
Plaintiff-Respondent,	)	Filed: November 20, 2009
	)	
v.	)	Stephen W. Kenyon, Clerk
	)	
ANTONIO C. GONZALEZ,	)	THIS IS AN UNPUBLISHED
	)	OPINION AND SHALL NOT
Defendant-Appellant.	)	BE CITED AS AUTHORITY
	)	

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Appeal from the District Court of the Fourth Judicial District, State of Idaho, Elmore County. Hon. Michael E. Wetherell, District Judge.

Judgment of conviction and unified sentence of five years, with four years determinate, for felony driving under the influence, affirmed.

Molly J. Huskey, State Appellate Public Defender; Erik R. Lehtinen, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

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Before LANSING, Chief Judge, GUTIERREZ, Judge  
and GRATTON, Judge

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PER CURIAM

Antonio C. Gonzalez was charged with felony driving under the influence, Idaho Code § 18-8004(F), and was found guilty by a jury. Gonzalez was sentenced to a unified term of ten years, with five years determinate. Gonzalez appealed from his judgment and based on a stipulation of the parties that the sentence was illegal, the case was remanded to the district court for re-sentencing. The district court imposed a sentence of five years, with four years determinate. Gonzalez appeals from the re-sentencing, contending that the district court abused its discretion by imposing an excessive sentence.

Where a sentence is within the statutory limits, it will not be disturbed on appeal absent an abuse of the sentencing court's discretion. *State v. Hedger*, 115 Idaho 598, 604, 768 P.2d

1331, 1337 (1989). We will not conclude on review that the sentencing court abused its discretion unless the sentence is unreasonable under the facts of the case. *State v. Brown*, 121 Idaho 385, 393, 825 P.2d 482, 490 (1992). In evaluating the reasonableness of a sentence, we consider the nature of the offense and the character of the offender, applying our well-established standards of review. See *State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 170 P.3d 387 (2007).

Applying the foregoing standards and having reviewed the record, we conclude that the district court did not abuse its discretion by imposing the sentence. Accordingly, Gonzalez's judgment of conviction and sentence are affirmed.